

7/29/06

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Of Attorneys for Defendants Ann Rule, Free Press and Simon & Schuster

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

AT PORTLAND

LIYSA NORTON, an individual;
WAYLAND DeWITT, an individual; and JON
"TOR" DeWITT, an individual,

Plaintiffs,

v.

ANN RULE, an individual; FREE PRESS, a
division of Simon & Schuster, Inc.; SIMON &
SCHUSTER, INC., a Delaware corporation;
and DOES I through XX, inclusive,

Defendants.

Case No. **06 851MO**

NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

Pursuant to 28 U.S.C. §§ 1441 and 1446, defendants Ann Rule, Free Press, and Simon & Schuster ("Defendants") remove this action from the Circuit Court of the State of Oregon, for the County of Multnomah, to the United States District Court for the District of Oregon in Portland, Oregon.

1. On December 22, 2005, Plaintiffs filed their Complaint in the Circuit Court of the State of Oregon, for the County of Multnomah, entitled *Northon, et al. v. Rule, et al.*, Case No. 0512-

Receipt 10013

13401. On December 27, 2005, Plaintiff's filed a First Amended Complaint. On March 3, 2006, Plaintiffs filed a Second Amended Complaint. On March 10, 2006, Defendants were served with a Summons and the Second Amended Complaint. In accordance with 28 U.S.C. § 1446(a), a true copy of all pleadings, process, and orders served on Ann Rule, Free Press and Simon & Schuster in this action to June 15, 2006 is attached hereto as Exhibit 1.

2. Pursuant to 28 U.S.C. § 1441(a), a defendant may remove an action filed in the state court to the United States District Court if the district court has original jurisdiction over the action. This action is one over which the court has original jurisdiction under 28 U.S.C. § 1332(a)(1) because

- (1) The amount in controversy exceeds \$75,000; and
- (2) All Plaintiffs are citizens of states different from all Defendants, and no Defendant is a citizen of the state in which the action was brought.

Specifically, plaintiff Liysa Northon and Wayland DeWitt are citizens of the State of Oregon (Pls.' Compl. ¶¶7-8) and plaintiff Jon "Tor" DeWitt is a citizen of the State of Montana (Pls.' Compl. ¶10). Defendant Simon & Schuster, Inc. is both organized and incorporated under the laws of State of Delaware, with its principal place of business in New York, and defendant Free Press is a Division of that corporation. (Pls.' Compl. ¶¶2-3.) Defendant Ann Rule is a citizen of the State of Washington. (Pls.' Compl. ¶1.)

3. The amount of controversy in this action exceeds \$75,000 in that plaintiff seeks, among other things, \$1,000,000 for each plaintiff in non-economic damages and \$500,000 in economic damages.

4. Removal is timely in that fewer than 30 days have elapsed since receipt by defendants of a copy of the signed Order dismissing the State of Oregon, the only non-diverse party, from the case. 28 U.S.C. § 1446(b).

5. Defendants have good and sufficient defenses to this action and do not waive any defenses, jurisdictional or otherwise, by the filing of this Notice.


6. This notice is filed pursuant to Fed.R.Civ.P. 11.

Written notice of the filing of this Notice of Removal of Civil Action will be given to Plaintiffs. A copy of this Notice of Removal and supporting papers, will be filed with the Clerk of the Circuit Court of the State of Oregon for the County of Multnomah, as provided by 28 U.S.C. § 1446(d).

WHEREFORE, defendant removes this action from the Circuit Court for the State of Oregon, for the County of Multnomah to the Portland Division of the United States District Court, for the District of Oregon.

DATED this 16th day of June, 2006 .

DAVIS WRIGHT TREMAINE LLP

By 

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Of Attorneys for Defendants Ann Rule, Free Press, and
Simon & Schuster

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **NOTICE OF REMOVAL**

on:

L.E. Ashcroft, OSB #79150
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Of Attorneys for Plaintiff

Of Attorneys for Plaintiffs

- ☐ by **electronically** mailed notice from the court on the date set forth below;
- ☒ by **mailing** a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;
- ☐ by causing a copy thereof to be **hand-delivered** to said attorney on the date set forth below;
- ☐ by **faxing** a copy thereof to said attorney at his/her last-known facsimile number on the date set forth below.

Dated this 16th day of June, 2006.

DAVIS WRIGHT TREMAINE LLP

By



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